IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

MFA.No. 436 of 2001()

OP(MV.)1719/1995 of MOTOR ACCIDENT CLAIMS TRIBUNAL, MANJERI DT.23.9.2000.
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APPELLANTS: PETITIONERS
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1. **K.KALI, AGED 40 YEARS, W/O.MUNDAN.**

2. **K.C.KUNHUNNI, AGED 32 YEARS, S/O. MUNDAN.**

3. **K.VALSALA, AGED 23 YEARS, D/O.MUNDAN, KARUVATHODI HOUSE, P.O. ANAKAYAM, MALAPPURAM DISTRICT.**

BY ADV. SRI.K.M.SATHYANATHA MENON

RESPONDENTS: RESPONDENTS
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1. **P.ABOOBACKER, S/O. ABBAS, PADHINJARETHODI HOUSE, VETTILAKKARA P.O., CHALLIYAD, WYNAD DISTRICT. (DRIVER OF THE BUS BEARING NO.K.S.F. 6570.)**

2. **K.P.KUNHIMOHAMMED, S/O. HYDRU, KOLLAPARAMBAN HOUSE, N.S.S. COLLEGE ROAD, MANJERI, (OWNER OF THE VEHICLE BEARING NO.K.E.F. 6570 BUS.)**

3. **NATIONAL INSURANCE CO.LTD., REP.BY DIVISIONAL MANAGER, DIVISIONAL OFFICE, CALICUT, (INSURER OF THE VEHICLE)**

BY ADV. SRI.JOE KALLIATH - R3

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 29/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. KOSHY and K.P.BALACHANDRAN, JJ.

M.F.A. No. 436 of 2001

Dated this the 29th day of June, 2007

Judgment

Koshy, J.

An unskilled manual worker, aged 59, died in a motor accident, leaving his wife aged 45 years, and son and unmarried daughter. The accident occurred on 19.11.1994 at about 8.00 p.m. He died after 11 days of treatment at the Medical College Hospital, Kozhikode. Wife gave evidence to the effect that the deceased was bringing home an amount of Rs.2,400/- after all personal expenses. The tribunal was of the view that he was earning Rs.2,100/- per month and Rs.1,400/- was taken as the dependency income and calculated compensation taking 7 as the multiplier. The deceased was aged 59 at the time of death. As per the second schedule, multiplier is 8 if the age of the motor accident victim is between 55 and 60. The age of the wife was only 45. We are of the view that 8 can be taken as the multiplier taking guidelines from the second schedule as held by the three-

member bench of the Supreme Court in Smt.Supe Dei and others v. National Insurance Co. Ltd. and another (JT 2002 (Suppl.1) SC 451). He was maintaining his wife and children. Considering the daily wages of an unskilled worker, a coolie, in 1994, we are of the opinion that, in the absence of data, Rs.2,100/- taken as the monthly income by the tribunal needs no change. Hence, compensation payable will be Rs.1400 x 12 x 8 = Rs.1,34,400/-. Tribunal has awarded only Rs.1,17,600/-. Therefore, additional compensation payable on this count will be Rs.16,800/-. Life saving medicines were administered to him. He was in the hospital for 11 days fighting for life. The tribunal has granted only Rs.1,000/- as medical expenses. We are of the view that Rs.5,000/- more can be granted as medical expenses. Thus, thus claimants will be entitled to an additional amount of Rs.21,800/-.

The above amount of Rs.21,800/- should be deposited by the third respondent insurance company with 8% interest from the date of application till its deposit. On deposit of the above compensation, first appellant is allowed to withdraw 50% of the above amount

and balance in equal proportion by appellant Nos.2 and 3.

The appeal is allowed partly.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

vaa

J.B. KOSHY AND
K.P.BALACHANDRAN, JJ.

M.F.A.NO.436/2001

JUDGMENT

Dated:29th June, 2007